

ORIGINAL

FILED

July 22 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA
Cause No. DA 10-0290

GEORGE COZINO and
DEBORAH ANN COZINO,

Petitioners and Appellees,

FILED

vs.

JUL 22 2010

GLENN ROYCE JONES,

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Respondent/Appellant. .

RESPONDENT/APPELLANT'S OBJECTION TO MOTION TO DISMISS
THIS COURT'S ORDER OF MEDIATOR APPOINTMENT

On Appeal from the District Court of the Eighth Judicial District
Cascade County, State of Montana
Hon. Thomas M. McKittrick, Presiding
Cause No. ADR-10-306

APPEARANCES:

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Attorneys for Petitioners/Appellees

Attorney for Respondent/Appellant

COMES now, the Respondent/Appellant, GLENN ROYCE JONES, by and through his attorney of record, Nathan J. Hoines and hereby objects to the Petitioners/Appellees' Motion to Dismiss this Court's Order of Mediator and to rescind its Order of Mediator Appointment.

This matter originated in Cascade County District Court Cause No. ADR-10-306. A Permanent Order of Protection was granted to Petitioners/Appellees against Respondent/Appellant. The Respondent/Appellant is a retired police officer and had a long standing relationship with the Petitioners/Appellees. The Respondent/Appellant has contested the restraining order and the facts for granting the Permanent Order of Protection. Specifically, the Respondent/Appellant has contested the facts that he exposed himself numerous times to Petitioners/Appellees, or more importantly, stalked the Petitioners/Appellees. The Respondent/Appellant believes the Court's findings are clearly erroneous and has deprived him of his constitutional right of freedom of association of walking in public places in Great Falls, Montana.

Petitioners/Appellees have cited no authority for the proposition that the Permanent Order of Protection is not subject to the mediation clause of M.R. App.P.7.

The temporary order of protection filed by the Petitioners/Appellees in ADR-10-306, is a domestic relations cause number. DR in the ADR cause number

specifically stands for “Domestic Relations”.

M.R. App. P. 7 (2)(b) provides:

“Domestic relations. Appeals in domestic relations cases, including but not limited to all dissolution issues, child custody and support issues, maintenance issues and modifications of orders entered with respect to those issues; but excluding proceedings regarding abused or neglected children, paternity disputes, adoptions, and all juvenile and contempt proceedings when the excluded matters constitute the only issues on appeal. In addition, if there has been a finding by a district court that one of the parties has been a victim of domestic violence, the appellate mediation may be conducted by telephone upon motion submitted to the mediator by either party.”

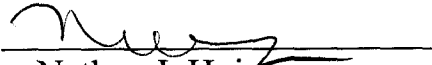
In the case, the Permanent Order of Protection was issued pursuant to M.C.A. Title 40, Chapter 15, under the family law section and is therefore the Order is a domestic relations order. Pursuant to M.R.App.P.7, in domestic relations cases, a permanent order of protection is not excluded as one of the proceedings that are not subject to mandatory mediation rule.

It is unfortunate that there is a cost for mediation however Respondent/Appellant believes mediation is important, especially when involving a dispute between former friends. The Permanent Restraining Order that has been issued has made a significant impact on the Respondent/Appellant, and he would like a chance at mediation to attempt to resolve the differences with the Petitioners/Appellees. The Respondent/Appellant understands that the Supreme Court has a very significant caseload and believes mediation is a very important process concerning domestic relations orders such as a restraining order. Therefore,

the Respondent/Appellant objects and requests that the parties follow the original Order issued by the Supreme Court on the 7th day of July, 2010.

Dated this 21 day of July, 2010.

HOINES LAW OFFICE, P.C.

By 
Nathan J. Hoines
Attorney for Respondent/Appellant

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CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of July, 2010, a copy of the foregoing document was served on the following persons by the following means:

_____ CM/ECF
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Dated this 21st day of July, 2010.



Anita Bangen
Legal Secretary